

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

MILAGROS RAYRAY SURATOS,

Petitioner,

vs.

SHERYL FOSTER, *et al.*,

Respondents.

2:10-cv-00881-KJD-LRL

ORDER

Petitioner has submitted an application (#1) to proceed *in forma pauperis* and a habeas petition.

The application to proceed *in forma pauperis* is not on the proper form and does not include the required attachments. Local Rule LSR 1-1 requires that a petitioner use the Court's required form for a pauper application. Further, under 28 U.S.C. § 1915(a)(2) and Local Rule LSR1-2, the petitioner must attach an inmate account statement for the past six months and a properly executed financial certificate.

The application therefore will be denied, and the present action will be dismissed without prejudice to the filing of a new petition in a new action with a pauper application on the proper form with all required attachments. From review of the papers presented, a dismissal of the present action without prejudice will not result in a promptly filed new action being untimely under 28 U.S.C. § 2244(d)(1). The Supreme Court of Nevada affirmed the conviction on direct appeal on May 7, 2010. See #2, at electronic docketing page 3.

All requests for relief will be denied without prejudice to their reassertion in a new action.

1 IT THEREFORE IS ORDERED that the application (#1) to proceed *in forma pauperis*
2 is DENIED and that this action shall be DISMISSED without prejudice to the filing of a new
3 petition in a new action with a pauper application on the proper form with all required
4 attachments.

5 IT FURTHER IS ORDERED that petitioner's motion (#2) for appointment of counsel
6 is DENIED without prejudice to reassertion of the motion in a new action.

7 IT FURTHER IS ORDERED that the Clerk of Court shall send petitioner two copies of
8 an application form to proceed *in forma pauperis* for incarcerated persons, two copies of a
9 noncapital Section 2254 habeas form, one copy of the instructions for each form, and a copy
10 of the papers (##1 and 2) that she submitted in this action.

11 The Clerk of Court shall enter final judgment accordingly, dismissing this action without
12 prejudice.

13 DATED: June 9, 2010

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17 KENT J. DAWSON
United States District Judge
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